

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DYNAMIC MACHINE WORKS, INC.

Plaintiff,

vs.

Civil Action No. 04-10525-WGY

MACHINE & ELECTRICAL
CONSULTANTS, INC.,

Defendant.

DEFENDANT’S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT

Defendant Machine & Electrical Consultants, Inc. (“MECI”), pursuant to Federal Rule of Civil Procedure 56, moves for partial summary judgment against Plaintiff Dynamic Machine Works, Inc. (“Dynamic”) as to Count IV of Dynamic’s Complaint (Mass. Gen. Law ch. 93A) and as to Dynamic’s claim that it may recover \$500 per day if it successfully proves its breach of contract claim.

MECI requests summary judgment on Dynamic’s Chapter 93A claim because Dynamic neither alleges nor offers evidence of any unfair, deceptive or bad faith act by MECI. MECI also requests that summary judgment enter against Dynamic on its claim that it may refuse to accept or pay for the Johnford Lathe, and at the same time recover a \$500 per day penalty.

In support of its cross-motion for partial summary judgment, MECI submits the accompanying memorandum of law, and affidavits of the Treasurer of MECI, Norman Crepeau; the Vice President of Absolute Machine Tools, Inc., Hayden Wellman; a

service technician with MECI, Thomas Giovannani; and deposition testimony of Mr. Crepeau, Venanzioro Fonte, and Kevin McGinley.

Respectfully submitted,

MACHINE & ELECTRICAL
CONSULTANTS, INC.

by its attorneys,

/s/ Jeffrey D. Clements

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DATED: October 12, 2004.

CERTIFICATE OF SERVICE

I, Jeffrey D. Clements, hereby certify that a copy of the foregoing document was served by electronic filing to counsel of record for the plaintiff on October 12, 2004.

/s/ Jeffrey D. Clements
